

PUBLIC HEARING

STATE OF CALIFORNIA

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

**SAFER CONSUMER PRODUCTS REGULATIONS - Listing Paint or  
Varnish Strippers Containing Methylene Chloride as a  
Priority Product**

**Department Reference Number: R-2016-05**

SIERRA HEARING ROOM

CAL/EPA HEADQUARTERS BUILDING

1001 I STREET

SACRAMENTO, CALIFORNIA

MONDAY, JANUARY 8, 2018

1:00 P.M.

California Reporting, LLC  
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## APPEARANCES

### HEARING PANEL

Julia Gress, Hearing Officer, DTSC  
Karl Palmer, Chief, Safer Consumer Products Branch

### PUBLIC TESTIMONY

Raleigh Davis, American Coating Association

Dennis Shireman, WM Barr & Co., Inc.

T.J. Vestal, WM Barr & Co., Inc.

Clint Byrd, WM Barr & Co., Inc.

Alvaro Casanova, Center for Environmental Health

Lisette van Vliet, Breast Cancer Prevention Partners

Andria Ventura, Clean Water Action

Catherine Houston, United Steelworkers

Dr. Michael Wilson, BlueGreen Alliance

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P R O C E E D I N G S

1 1:00 P.M.

2 HEARING OFFICE GRESS: Good afternoon, everyone.  
3 We're ready to get started. Welcome everyone. My name is  
4 Julia Gress and I'm with DTSC. I will be the Hearing  
5 Officer for today's proceedings.

6 First we need to do a little housekeeping. Please  
7 look around and identify the exit closest to you. In some  
8 cases, an exit may be behind you. In the event of a fire  
9 alarm we are required to evacuate this room immediately. Do  
10 not use the elevator. Please take your valuables with you,  
11 exit through the closest stairway and proceed to the  
12 relocation site at Caesar Chavez Park across the street.  
13 Please obey all traffic signals and exercise caution  
14 crossing the street. While staff will endeavor to assist  
15 you to the nearest exit, you should also know that you may  
16 find an exit door by following the ceiling-mounted exit  
17 signs. If you cannot use the stairs, you will be directed  
18 to a protective vestibule inside a stairwell.

19 For the record, today is January 8th, 2018 and the  
20 time is 1:00 p.m.

21 Under the provisions of the Administrative  
22 Procedure Act, this is the time and place set for the  
23 presentation of statements, arguments and contentions,  
24 orally and in writing, for or against the Department's

1 proposal to amend the California Code of Regulations, Title  
2 22, Division 4.5, Chapter 55, Article 11 to amend Section  
3 69511 and add Section 69511.3. This proposed amendment  
4 pertains to identification of a Priority Product under the  
5 Safer Consumer Products Regulations approved by the Office  
6 of Administrative Law and filed with the Secretary of State  
7 on August 28th, 2013.

8           The entire proceedings will be recorded. The  
9 recording as well as any exhibits or evidence presented at  
10 this hearing will be incorporated into the rulemaking file  
11 and will be reviewed prior to final approval of the  
12 Regulations by the Department in the Office of  
13 Administrative Law.

14           The purpose of today's hearing is to accept public  
15 comment. If you would like to speak, please register by  
16 filing out the comment card and giving it back to Ash.  
17 Registered persons will be heard in the order of their  
18 registration. Anyone else wishing to speak at the hearing  
19 will have an opportunity after all registered persons have  
20 been heard. Persons presenting testimony at this hearing  
21 will not be sworn in nor will we engage in cross-examination  
22 of those providing public comment.

23           The Department will not respond to comments made  
24 today, but will address all comments in writing and include  
25 them as part of the rulemaking record available to the

1 public.

2           We ask that you restrict your comments to the  
3 Regulations being considered today. If you have a written  
4 comment you would like to submit today, please give that to  
5 Ash before you leave.

6           Persons who do not wish to speak, but would like  
7 to indicate their presence at this hearing, can do so using  
8 the participant sign-in sheet by the door. The participant  
9 sign-in sheet will be used to notify interested parties of  
10 any post-hearing changes to the proposed Regulations.

11 Please note that unless you specifically request  
12 notification by mail, we will be using the email addresses  
13 provided on the sign-in sheet, on the comment cards and  
14 those provided with written comments, to notify interested  
15 parties of any post-hearing changes to the proposed  
16 Regulation.

17           After the close of this hearing, you may present  
18 hard copy written comments to us at 1001 I Street, 12th  
19 Floor, Sacramento, California, 95810 until 5:00 p.m. on  
20 January 18th. Or you may submit written comments to us  
21 through the Department's Safer Consumer Products Information  
22 Management System, also referred to as CalSAFER, at  
23 [calsafer.dtsc.ca.gov](http://calsafer.dtsc.ca.gov) until 11:59 PST on January 18th.

24           Copies of the proposed Regulation and Public  
25 Notice are on the table back by the door. This Regulation

1 was duly noticed in the *California Regulatory Notice*  
2 *Register* and copies of the Notice, proposed Regulation text  
3 and the ISOR were made available to interested parties who  
4 requested these documents. Additional copies are available  
5 through our website and at the Department's headquarter  
6 office, regional offices, the State Library and depository  
7 libraries.

8           Again, people wishing to speak at this hearing  
9 need to register as witnesses. If you have not yet  
10 registered and wish to speak, we ask that you do so now by  
11 adding your name to the sign-in sheet at the back of the  
12 room and filling out a comment card. Testimony will be  
13 heard in the order of registration and will be limited to  
14 three minutes. I will be holding up the yellow card at the  
15 two-minute mark and the red card at three minutes. We also  
16 have a digital timer right here, so that you are able to  
17 monitor the time as you speak.

18           To enable the audience to hear and ensure that  
19 your comments are entered into the record, we ask that  
20 speakers come to the front and speak into the microphone  
21 when called. It would also be helpful if you begin by  
22 stating your name and the organization you represent.  
23 Please spell your name slowly, so it is recorded accurately.

24           We also ask that if you have written comments  
25 please submit those along with your oral comments, and

1 either limit your oral comments to those items not covered  
2 in your written comments, or summarize your written  
3 comments. With that, let us begin to hear comments on the  
4 proposed regulation.

5 Our first speaker today will be Raleigh Davis.

6 MS. DAVIS: Good afternoon. My name is Raleigh  
7 Davis and I'm with the American Coatings Association. ACA's  
8 membership represents over 90 percent of the total domestic  
9 production of paint and coatings in the U.S., as well as  
10 companies that manufacture and distribute methylene chloride  
11 paint strippers and removers. And thus we are tracking the  
12 development of this regulation very closely.

13 ACA believes that the proposal to list methylene  
14 chloride as a Priority Product is fundamentally flawed.  
15 Furthermore, it will devastate industries and force  
16 consumers to choose between alternatives that are less  
17 effective, that can present health and environmental risks,  
18 and that are more costly to use.

19 Currently, there are no technologically and  
20 economically feasible alternatives to methylene chloride  
21 paint removers. The alternative products result in  
22 increased ozone formation, are less effective and result in  
23 greater exposure to consumer and employees.

24 State and local air quality agencies that regulate  
25 VOC content of products, which -- already restrict the



1 amount of methylene chloride that are allowed in paint  
2 strippers. For instance, under CARB's consumer products  
3 regulation, paint removers are limited to 50 percent VOC by  
4 weight with VOCs including methylene chloride. We believe  
5 that these maintain a low enough level of methylene chloride  
6 in the product to protect human health and the environment.  
7 This comprehensive regulatory framework provides adequate  
8 protections with respect to the same potential adverse  
9 impacts and potential exposure pathways that are  
10 specifically targeted by this rulemaking.

11           At the federal level, risks associated with all  
12 the uses of methylene chloride are already being extensively  
13 evaluated under TSCA. Additionally, methylene chloride is  
14 classified by EPA as a hazardous air pollutant. EPA has  
15 promulgated numerous national emission standards for  
16 hazardous air pollutants that regulate the use of HAPs,  
17 including methylene chloride. In addition, EPA is currently  
18 in the process of reviewing the NESHAP standards. And any  
19 revisions to these rules will also likely further reduce the  
20 use of methylene chloride.

21           ACA also encourages DTSC to carefully evaluate the  
22 quality of available data about risks and incidents of  
23 related to methylene chloride in order to encourage accurate  
24 controls.

25           In evaluating methylene chloride exposures,

1 agencies applied numerous of worse case and default  
2 assumptions that lead to inaccurate and overestimated  
3 potential risks for methylene chloride, which could  
4 ultimately lead to ineffective regulation based on actual  
5 risks. Oftentimes the exposure data relied on for methylene  
6 chloride risk assessments are out of data, inappropriate and  
7 overstate the exposure and therefore risk that consumer and  
8 DIY users of paint remover.

9           In addition, with the right precautions, methylene  
10 chloride can be used safely with no health effects. ACA  
11 strongly believes that DTSC should not summarily reject  
12 viable and effective regulatory alternatives including  
13 enhanced labeling, consumer education and training  
14 requirements for product users that will permit product  
15 manufacturers and formulators to manage potential risks to a  
16 reasonable level.

17           At the federal level, EPA erroneously concluded  
18 that labels and warning are ineffective.

19           (Timer sounds) And I think I'm almost out of time,  
20 I'll finish up here.

21           Nearly all chemical and management regulatory  
22 programs, in not only California but throughout the U.S.,  
23 rely effectively on labeling to proscribe uses and  
24 limitations and communicate risks. The incidence of  
25 methylene chloride over-exposure cases is declining. The

1 small number of serious events are occupational or from  
2 intentional misuse and --

3 HEARING OFFICE GRESS: Excuse me. I apologize for  
4 interrupting you, but you're speaking time is up now.

5 MS. DAVIS: Okay. Thank you for your time.

6 HEARING OFFICE GRESS: If you have written  
7 comments, please provide them to Ash.

8 MS. DAVIS: Awesome. Okay.

9 HEARING OFFICE GRESS: Thank you.

10 Our next speaker is Dennis Sharworth. (phonetic)

11 MR. SHIREMAN: Shireman.

12 HEARING OFFICE GRESS: Thank you.

13 MR. SHIREMAN: Hello, my name is Dennis Shireman.  
14 That's S-h-i-r-e-m-a-n. I'm with WM Barr.

15 Good afternoon. My name is Dennis Shireman. I'm  
16 the Vice President of Research and Development at WM Barr  
17 and Company. On behalf of WM Barr, I would like to thank  
18 the Department for the opportunity to speak at today's  
19 hearing on the issue of great importance to our company as  
20 well as the State of California and its workers and  
21 consumers.

22 I'm the first of three speakers here today on the  
23 behalf of WM Barr. My comments will be focused on the  
24 chemistries of our paint remover products, why they are  
25 superior to the alternatives. Following me will be T.J.

1 Vestal, Director of Product Compliance, who will focus on  
2 product safety and Clint Byrd, Associate General Counsel,  
3 who will focus on some of the legal shortfalls of DTSC's  
4 proposal.

5 Please note that due to the Department's time  
6 limits on oral testimonies, our comments today will be  
7 general in nature, but WM Barr intends to submit a written  
8 letter detailing our concerns by the comment deadline of  
9 January 18th.

10 Before turning to the Department's regulation and  
11 our concerns with it, I would like to first provide a brief  
12 background of Barr and my role and experience. Barr is a  
13 100 percent employee-owned manufacturer of consumer  
14 products, including paint removers. Our employee owners  
15 include high-wage hourly workers on the manufacturing line,  
16 all of whom participate in our ownership program. We're  
17 headquartered in Memphis, Tennessee and have been in  
18 business since 1946. Barr is the leader in paint remover  
19 manufacturing. We've been producing methylene chloride  
20 formulated products for nearly 70 years.

21 My role at the company has been as the Vice  
22 President of Research and Development, and it includes the  
23 oversight of and development of new formulas and products by  
24 our R&D department, as well as leading our consumer care  
25 department, which has direct contact with product users. In

1 this capacity I am intimately familiar with Barr's methylene  
2 chloride and other formulated paint removers and our  
3 extensive formulation efforts to find alternatives to  
4 methylene chloride.

5           Methylene chloride is above and beyond the most  
6 preferred solvent to use in paint removers. Before  
7 methylene chloride was introduced, most paint removers  
8 consisted of a mixture of benzene and other volatile  
9 solvents. These volatile solvents were extremely flammable  
10 and the flammability of these paint removers resulted in  
11 fires causing injuries and deaths. The benzene-based  
12 removers were rapidly replaced with methylene chloride paint  
13 removers, because methylene chloride paint removers can be  
14 formulated to be non-flammable and are effective in removing  
15 multiple layers of paint.

16           The chemical and physical characteristics give it  
17 the ability to quickly penetrate multiple layers and soften  
18 and remove chemical-resistant coatings.

19           I've got a few more paragraphs. (Timer sounds.)  
20 Can I at least finish this paragraph?

21           HEARING OFFICE GRESS: Yes.

22           MR. SHIREMAN: Okay. It does not deplete the  
23 upper level ozone and is considered to be negligible  
24 regarding ground level ozone formation, greenhouse gas  
25 emissions, and acid rain.

1 HEARING OFFICE GRESS: Thank you. If you have  
2 additional written comments please give them to Ash.

3 Our next speaker is T. Vestal?

4 MR. VESTAL: That's T.J. Vestal, V like Victory e-  
5 s-t-a-l. And good afternoon, I am the Director of Product  
6 Compliance at WM Barr where I work with regulatory agencies.

7 You just heard from a colleague, Dennis Shireman,  
8 that methylene chloride is above and beyond the most  
9 preferred solvent to be used in paint removers. But as with  
10 other organic solvents, the misuse of methylene chloride can  
11 be harmful to human health. Barr takes this very seriously,  
12 which is why we have gone to great lengths to provide paint  
13 removal products that can be used safely and without  
14 unreasonable risk to health or the environment. We comply  
15 with the laws and regulations pertaining to the industry,  
16 and it is why we are working directly with the U.S. Consumer  
17 Product Safety Commission to develop a new standard for  
18 labeling on methylene chloride formulated paint strippers.  
19 A standard that Barr is already using today, which directly  
20 addresses the inappropriate condition of the use that is  
21 largely responsible for this proceeding, namely stripping  
22 bathtubs and in other enclosed spaces.

23 Barr's paint removal products comply with a  
24 variety of health and safety laws and regulations. For  
25 example, OSHA has substantial authority to address any risk

1 associated with methylene chloride when used in the work  
2 place and has recently updated methylene chloride standards,  
3 which provide a methylene chloride standard for general  
4 industry, shipyard employment and construction.

5           These standards also include OSHA work place  
6 exposure limits. The Consumer Product Safety Commission  
7 exercises authority with respect to the regulation of  
8 consumer use paint strippers under the Consumer Product  
9 Safety Act and the Federal Hazardous Substances Act. The  
10 CPSC's authority under these statutes includes issuing rules  
11 reasonably necessary to eliminate or reduce unreasonable  
12 risk of injury associated with a consumer product to require  
13 labeling or even prohibit the use of a hazardous substance  
14 in forms intended for household use.

15           As I mentioned earlier, the CPSC is considering a  
16 new standard that will very clearly address this condition  
17 of use, inappropriate as it may be, that the Department is  
18 concerned with.

19           In addition, the product-chemical combination is  
20 regulated under the Clean Air Act National Emissions  
21 Standard Hazard Air Pollutants for paint stripping and  
22 miscellaneous surface coating operations at area sources.  
23 The coverage of EPA's regulation of methylene chloride  
24 emission, under NESHAP is fairly broad applying to area  
25 sources, engaging in product stripping operations that use

1 methylene chloride containing products with limited  
2 exceptions.

3           Methylene chloride also is regulated as a  
4 carcinogen under California's Safe Drinking Water and Toxic  
5 Enforcement Act or Proposition 65. Accordingly, businesses  
6 are prohibited from exposing people in the state to  
7 methylene chloride without prior warning. One of the stated  
8 basis for the Department's proposed listing is the methylene  
9 chloride prevents [sic] potential for widespread or  
10 significant adverse impacts.

11           HEARING OFFICE GRESS: Thank you very much for  
12 your comment.

13           Our next speaker is Clint Byrd.

14           MR. BYRD: Good afternoon. My name is Clint Byrd.  
15 That's B-y-r-d. And I'm the Associate General Counsel at  
16 Barr and my role as AGC is to provide general legal advice  
17 in multiple areas including regulatory matters such as this.

18           Barr believes the Department's proposed regulation  
19 is legally deficient in several respects. First, in  
20 determining whether a product chemical combination is  
21 appropriate for priority product designation. The  
22 Department is required to determine whether there is a  
23 readily available safer alternative that is functionally  
24 acceptable, technically feasible and economically feasible.

25           The Department's rulemaking materials however,



1 contain no discussion of alternatives. Although the  
2 Department examined a limited number of alternatives in  
3 2014, the Department failed to demonstrate that any  
4 alternative was safer, functionally acceptable, technically  
5 feasible or economically feasible. Instead, the Department  
6 requested information from responsible entities and  
7 stakeholders regarding such alternatives. Barr's comment  
8 letter, which we intend to submit, will have extensive  
9 studies and documentation indicating, as my colleagues  
10 pointed out, that no alternatives meeting this legal  
11 criteria exists.

12           The Department also failed to include any  
13 discussion regarding existing state and federal laws and  
14 regulations pertaining to methylene chloride in paint  
15 strippers, other than to very briefly mention TSCA, the  
16 Toxic Substances Control Act.

17           Government Code, Section 113465.2(b)(5) requires  
18 the Department to describe its efforts in connection with a  
19 proposed rulemaking to avoid unnecessary duplication or  
20 conflicts with federal regulations addressing the same or  
21 similar issues. The Department may adopt regulations  
22 different from the federal law only upon a finding of one or  
23 more of the following conditions: a) the differing state  
24 regulations are authorized by law, or b) the cost of  
25 differing state regulations is justified by the benefit to

1 human health, public safety, public welfare or the  
2 environment.

3           In addition to determining whether to list a  
4 product-chemical combination as a Priority Product, the  
5 Department is required to consider 1) the scope other state  
6 and federal laws regulating the product or chemical and 2)  
7 the extent to which such laws address and provide adequate  
8 protections with respect to the potential adverse impacts  
9 and exposure pathways under consideration by the Department.

10           As my colleagues discussed, there are multiple  
11 federal and state laws that regulate paint strippers  
12 containing methylene chloride. The Department's rulemaking  
13 fails to address the scope of these existing laws. And  
14 furthermore, the Department has failed to address the extent  
15 to which these existing laws provide adequate protection  
16 with respect to the potential adverse impacts and exposure  
17 pathways under consideration by the Department. The  
18 Department must address these deficiencies in order to  
19 satisfy the listing requirements.

20           From a procedural standpoint we believe Barr has  
21 fulfilled its obligations under the California  
22 Administrative Procedures Act. Specifically, Department  
23 environmental impact statement substantially underestimates  
24 the costs associated with preparing a two-part alternative  
25 analysis. Further, the EIS assumed that every responsible

1 entity would prepare an AA either independently or through a  
2 trade association, but did not estimate the resulting costs  
3 associated with preparing and submitting a product-chemical  
4 replacement intent and confirmation notification in lieu of  
5 an AA, the cost of which would be very substantial.

6 On behalf of Barr, thank you.

7 HEARING OFFICE GRESS: Thank you for your comment.

8 Our next commenter is Alvaro Casanova.

9 MR. CASANOVA: Hello. My name is Alvaro Casanova.  
10 That's C-a-s-a-n-o-v-a. I'll be very brief. I'm with the  
11 Center for Environmental Health and I'm here to support the  
12 proposed amendments. Thank you.

13 HEARING OFFICE GRESS: Well, thank you.

14 Our next speaker, Lisette Vliet. (phonetic)

15 MS. VAN VLIET: Thank you, good afternoon. My  
16 name is Lisette van Vliet, that's v-a-n V-l-i-e-t. And I'm  
17 here from the Breast Cancer Prevention Partners, formerly  
18 the Breast Cancer Fund.

19 Methylene chloride has been designated as a  
20 probably carcinogen by the World Health Organization's  
21 International Agency for Research on Cancer. It's  
22 reasonably anticipated to be a carcinogen by the U.S.  
23 National Toxicology Program. And it's a chemical known to  
24 the State of California to cause cancer on the Prop 65 list.

25 Scientific evidence not only suggests links to

1 brain cancer, liver cancer, certain lung cancers, non-  
2 Hodgkin's lymphoma and multiple myeloma, but also a possible  
3 link with female breast cancer. Methylene chloride was  
4 included in a peer reviewed list of over 200 breast and  
5 mammary gland carcinogens.

6           We strongly urge the Safer Consumer Products  
7 Program to move ahead with listing methylene chloride as a  
8 Priority Product for three reasons. First of all, the  
9 evidence is strong and the level of risk is very high. We  
10 believe the evidence warrants moving methylene chloride to  
11 the next stage in the process where manufacturers must  
12 examine whether safer alternative exist that reduce  
13 exposures to this harmful chemical.

14           Second, the USEPA, after having clearly  
15 demonstrated the health damage from methylene chloride in  
16 their proposed rule, have disappointingly abdicated their  
17 responsibility for protecting the public from methylene  
18 chloride in these products. It therefore falls to state  
19 governments and notably California, with such a huge  
20 influence on the U.S. national market, and with such a large  
21 population, to protect to act.

22           Finally, the California Safer Consumer Products  
23 Program has now been on the California law books since 2008  
24 with very few products achieving priority nomination, let  
25 alone official priority status. It is time for the program

1 to show real progress by taking action on a chemical for  
2 which the evidence is so strong and the harm so clear. If  
3 methylene chloride cannot become a Priority Product in this  
4 program, we are concerned that the program will suffer a  
5 loss of legitimacy and credibility in the eyes of  
6 Californians. This program is seen as a model around the  
7 country and around the world. It is essential that the  
8 program be fully implemented as it was designed, and begin  
9 to take concrete steps to protect the public from unsafe  
10 exposures to toxic chemicals in consumer products.

11 Moving forward with methylene chloride in paint  
12 strippers is that next step in implementation. The evidence  
13 is clear, the harm is real and the chemicals are still in  
14 use. For these reasons we strongly urge the Safer Consumer  
15 Product Program to move forward as quickly as possible to  
16 protect Californians from this highly toxic chemical. Thank  
17 you for the opportunity to comment.

18 HEARING OFFICE GRESS: Thank you.

19 Our next commenter is Andria Ventura.

20 MS. VENTURA: Good afternoon. My name is Andria  
21 Ventura. That's V as in Victor e-n-t-u-r-a. I am here on  
22 behalf of Clean Water Action and I am also here to support  
23 moving forward with methylene chloride.

24 First of all, we do need to respond to this  
25 chemical. And it is false to say that there are adequate

1 laws out there that are going to protect the public and  
2 particularly the workers who are being exposed to this  
3 chemical. The reality is that at the federal level USEPA  
4 has indicated that it is not going to move on methylene  
5 chloride in any way for the foreseeable future. So while  
6 that is an indefinite future for us California does have the  
7 right and the responsibility to its citizens to move  
8 forward. It also reminds all of us that the Safer Consumer  
9 Products is not necessarily in conflict with any decisions  
10 that would be made under TSCA, or USEPA, depending on what  
11 the regulatory decisions are at the end of the process.

12 I do want to respond to just a couple of things  
13 very quickly that we've heard so far. One is that the idea  
14 of worker deaths has been a little bit overstated and that  
15 we're looking at the worse-case scenarios. And we would  
16 argue that that is exactly what we should be looking at.  
17 When people do wear protective gear and still die on the  
18 job, we need to think about how we're doing things and if we  
19 can do better. And this program specifically allows us to  
20 do that, because it allows us to look at what the  
21 alternatives are, what the give and takes are and maybe how  
22 to develop them for the future.

23 I would also say that we do need to remember that  
24 what comes out at the end of this process is not a given.  
25 It doesn't mean that the product is going to be banned. It

1 doesn't mean that it's -- you know, there's a lot of  
2 decisions depending on what industry itself comes up with as  
3 far as what their alternatives are. And so it could be  
4 labeling. It could be a lot of different things. And so  
5 there's no real harm in moving forward and really analyzing  
6 what can be done to improve human safety while we're  
7 continuing to try to strip paint off walls and tubs.

8 I think that we also need to recall that Europe  
9 has moved on these chemicals. We've heard from the industry  
10 itself that the use of the methylene chloride is declining.  
11 That means that we are not going to devastate an industry.  
12 That there is innovative thinking happening and there are  
13 ways to perform the needs that methylene chloride are  
14 filling now with other alternatives. And that's what we  
15 have the opportunity here in California to do, to be  
16 innovative, to move forward, find those safer alternatives.  
17 Because at the end of the day it's not the label that's  
18 wrong on the product, it's the chemical that's dangerous.  
19 Thank you.

20 HEARING OFFICE GRESS: Thank you.

21 Our next commenter is Catherine Houston.

22 MS. HOUSTON: Thank you. I'm Catherine Houston,  
23 United Steelworkers. United Steelworkers represents 1.5  
24 million members, places safety and health of our workers  
25 above all else. We seek to protect our USW workers in our

1 industrial setting from toxic exposures within our  
2 California work environment such as steel mills, metal  
3 construction, refineries, upholstery, furniture, fabric wall  
4 covering, constructions and repairs. We also represent over  
5 2,000 EMTs and paramedics who daily risk their lives  
6 entering facilities of undetermined hazards, as well as over  
7 10,000 healthcare workers.

8           We know that these paint stripping, varnishing,  
9 metal cleaning and degreasing tool and equipment, all of  
10 that, methylene chloride is used to do all of those  
11 functions.

12           Published in the *American Journal of Emergency*  
13 *Medicine* in 1990, five patients were transported to the  
14 Emergency Department following methylene chloride exposure  
15 within an enclosed space: two workers and three emergency  
16 workers. One rescue worker was okay, but the other two  
17 experienced dizziness and mild nausea and were later  
18 discharged once recovered. But one worker went into cardiac  
19 arrest and died in the Emergency Department despite  
20 resuscitation efforts. The second worker arrived in cardiac  
21 arrest, was resuscitated and died four days later. The  
22 second worker's carboxyhemoglobin level increased from 2  
23 percent to 8 percent over the nine hours after his hospital  
24 admission despite being administered 40 to 50 percent oxygen  
25 by endotracheal tube.



1           Among the conclusions drawn then were that one,  
2   the cause of death of these patients were not carbon  
3   monoxide poisoning, but solvent-induced narcosis.  
4   Carboxyhemoglobin levels continued to rise after the  
5   secession of exposure despite being administered high flow  
6   of oxygen and rescue workers, three, became unsuspecting  
7   victims as well.

8           Within a paint can manufacturing facility in the  
9   Bay Area, our workers experienced increases in dizziness,  
10   breathing problems and asthma attacks. We had to upgrade  
11   protective gear and install new ventilation systems, which  
12   helped to mitigate the issues, but it only underscores the  
13   importance of recognizing the inherent dangers. Donald  
14   Millar, former Assistant Surgeon General and Director of  
15   NIOSH from 1981 to 1993, published a report estimating at  
16   that time that more than one million workers are potentially  
17   exposed to methylene chloride during its manufacture and in  
18   use.

19           A Center for Public Integrity analysis published  
20   in 2015 identified 56 accidental exposure deaths in the U.S.  
21   linked directly to methylene chloride since 1980: teenage  
22   workers, to moms, to retirees; a California church worker  
23   while stripping a baptismal pool here in California, another  
24   while refinishing a bathtub, another worker on his first day  
25   on the job. Gary de la Pena tried to rescue his friend who

1 lost consciousness while cleaning the tank while paint  
2 stripping. His co-worker died despite his best efforts.

3 This is a dangerous substance. For the safety and  
4 health and protection of all workers, our children and the  
5 public, we ask for your support in listing methylene  
6 chloride as a Priority Product. Thank you.

7 HEARING OFFICE GRESS: Thank you.

8 Our next commenter is Dr. Michael Wilson.

9 DR. WILSON: Good afternoon. My name is Mike  
10 Wilson, W-i-l-s-o-n. I'm the National Director for Health  
11 Programs with the BlueGreen alliance. We're a partnership  
12 of the nation's ten largest labor unions and five  
13 environmental organizations, with a combined membership of  
14 15 million members. I previously served as Chief Scientist  
15 for the California Department of Industrial Relations and as  
16 Associate Director at the Center for Green Chemistry at UC  
17 Berkeley and as a founding member of DTSC's Green Ribbon  
18 Science Advisory Panel.

19 The BlueGreen Alliance strongly supports DTSC's  
20 proposal to list paint or varnish strippers containing  
21 methylene chloride as a Priority Product. I'd like to make  
22 two brief points this afternoon on this matter.

23 First, DTSC's action is thoroughly justified and  
24 long overdue. DTSC has met it's evidentiary  
25 responsibilities under CCR Title 22, Section 69503 wherein

1 the Department is authorized to identify and list chemical  
2 product combinations that it determines to be of high  
3 priority, based on evidence of hazard traits, exposure  
4 potential and risks to sensitive sub-populations.

5 DTSC's technical report summarizes the findings of  
6 more than 50 government reports and scientific studies that  
7 over a period of more than 40 years have painstakingly  
8 documented the health risks associated with methylene  
9 chloride in many commercial and industrial applications.  
10 DTSC reports that in addition to people who handle these  
11 products at work, those most at risk include infants and  
12 children, pregnant women and the chronically ill. And yet  
13 as we've heard, in most hardware stores one can still  
14 purchase paint stripping products that contain up to 100  
15 percent methylene chloride. Based on the evidence, DTSC is  
16 correct in acting on its authorities to list these as  
17 priority products.

18 Second, we believe the chemical industry should be  
19 leading this effort alongside DTSC. To be clear, the  
20 chemical industry plays a major role in the economy,  
21 employment, and in industrial capacity. Its products reach  
22 into the lives of nearly every American at home or at work.  
23 And yet in comments submitted in this matter, the industry  
24 continues to offer resistance rather than well-informed  
25 technical recommendations for innovation in safer

1 alternatives that would support the Department's efforts to  
2 protect the life safety of workers and residents who  
3 purchase these products.

4 The proposal to provide labeling for these  
5 products is contrary to well-recognized industry best  
6 practices in applying the hierarchy of controls beginning  
7 with substitution, especially with regard to protecting  
8 workers and the public from potentially lethal hazards.

9 In closing, the BlueGreen Alliance supports the  
10 comments of the United Steelworkers, Center for  
11 Environmental Health, Breast Cancer Partners and Clean Water  
12 Action. And we commend DTSC for your work in taking this  
13 important step and we urge you to move forward as quickly as  
14 possible. Thank you for your attention today.

15 HEARING OFFICE GRESS: Thank you.

16 That concludes the registered witnesses. Is there  
17 anyone here who would like to step forward and present  
18 additional comments related to this rulemaking?

19 (No audible response.)

20 HEARING OFFICER GRESS: Let the record show that  
21 no one else raised their hand or otherwise indicated that  
22 they wish to speak.

23 MS. VAN VLIET: I have a question.

24 HEARING OFFICE GRESS: Would you please step to  
25 the microphone and introduce yourself once more?

1 MS. VAN VLIET: Thank you, Lissette van Vliet,  
2 Breast Cancer Prevention Partners. My question is at the  
3 beginning you stated that this event would be recorded. My  
4 question is with respect to the participant list, will that  
5 be made publically available on the website, so that we can  
6 see everybody who was here?

7 HEARING OFFICE GRESS: When we issue our response  
8 to comments we do publicly identify those people who have  
9 submitted comments.

10 MS. VAN VLIET: So not everybody who signed in to  
11 the participant list, only those people who've commented?

12 HEARING OFFICE GRESS: Only the commenters.

13 MS. VAN VLIET: Okay. Thank you.

14 HEARING OFFICE GRESS: Um-hmm.

15 As there are no other registered commenters I am  
16 closing the oral testimony portion of this hearing. Let me  
17 remind you that you may submit hard copy written comments to  
18 the Department at our offices here at CalEPA until 5:00 p.m.  
19 on January 18th. Or you may submit your comments  
20 electronically through the online CalSAFER system until  
21 11:59 on the 18th, okay?

22 With that I conclude this public hearing. Thank  
23 you for attending and for submitting your comments.

24 (Thereupon, the Meeting was adjourned at 1:36 p.m.)

25 --oOo--

**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of January, 2018.



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PETER PETTY  
CER\*\*D-493  
Notary Public

# **TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of January, 2018.



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Myra Severtson  
Certified Transcriber  
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